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Application Number

10/702,099-Conf. #6804

Filing Date

November 5, 2003

First Named Inventor

Rupert A. Schmidtberg

Art Unit

2876

Examiner Name

U. C. N. Le

Attorney Docket Number

S1446.70000US01

ENCLOSURES (Check all that apply)

☒ Fee Transmittal Form☒ Fee Attached (check for \$60)☒ Amendment/Reply to Non-Final OA☐ After Final☐ Affidavits/declaration(s)☒ Extension of Time Request☐ Express Abandonment Request☐ Information Disclosure Statement☐ Certified Copy of Priority Document(s)☐ Reply to Missing Parts/Incomplete Application☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53☐ Drawing(s)☐ Licensing-related Papers☐ Petition☐ Petition to Convert to a Provisional Application☐ Power of Attorney, Revocation Change of Correspondence Address☐ Terminal Disclaimer☐ Request for Refund☐ CD, Number of CD(s) _____☐ Landscape Table on CD☐ After Allowance Communication to TC☐ Appeal Communication to Board of Appeals and Interferences☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)☐ Proprietary Information☐ Status Letter☒ Other Enclosure(s) (please identify below):

Copy of Interview Agenda faxed 4/2/07

Return Receipt Postcard

Remarks

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name

WOLF, GREENFIELD & SACKS, P.C.

Signature

Printed name

Melissa A. Beede

Date

April 20, 2007

Reg. No.

54,986

Certificate of Mailing Under 37 CFR 1.8(a)

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To: Examiner Le - Art Unit 2876
U.S. Patent and Trademark Office

Fax No.: (571) 273-2397

Serial No.: 10/702,099

Title: **AUTOMATED IDENTIFICATION OF ANOMALOUS CONDITIONS IN
SUPPLY CHAIN PROCESSES**

From: Melissa A. Beede

Direct dial: 617.646.8287

Our File #: S1446.70000US01

ORIGINAL DOCUMENTS WILL NOT BE MAILED.

MESSAGE:

Examiner Le,

Per you request, attached is an agenda for the telephone interview scheduled Wednesday, April 4, 2007,
at 10 AM.

Best regards,
Melissa A. Beede, Reg. No. 54,986

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Docket No.: S1446.70000US01
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Rupert A. Schmidtberg et al.
Serial No.: 10/702,099
Confirmation No.: 6804
Filed: November 5, 2003
For: METHODS AND APPARATUS FOR COMMUNICATING
CONDITION INFORMATION ASSOCIATED WITH AN ITEM

Examiner: Uyen Chau N. Le
Art Unit: 2876

INTERVIEW AGENDA

In response to Examiner Le's request, a proposed agenda for the telephone interview scheduled for Wednesday, April 4th at 10 AM is outlined below.

The application includes three independent claims – claims 1, 27, and 41. Claims 1 and 17 are rejected as being obvious over U.S. Patent No. 6,826,267 (Daum) in view of U.S. Patent No. 6,712,276 (Abali). Claim 41 is rejected as being obvious over Daum and Abali, and further in view of U.S. Patent No. 6,563,417 (Shaw). Applicants' representative would like to discuss these rejections, and specifically the proposals and arguments outlined below.

I. Proposed Claim Amendments

In connection with the rejection of claim 1, the Office Action states:

“the at least one variable portion being comprised of one or more bits which were previously fixed and used to represent information identifying an item and not to represent any detectable environmental or physical condition (i.e., MFG and APP TYPE); wherein the at least one variable portion has at least one of a variable content and a variable length (i.e., DATA field) based at least in part on at least one detectable condition (i.e., temperature, etc.) associated with the at least one item (i.e., food, etc.)...”

Thus, the Examiner is reading the “one or more bits” of the “at least one variable portion” of claim 1 on the MFG and APP TYPE fields, and the “at least one variable portion” of claim 1 on the DATA field.

In the proposed amendments attached hereto, the recitation “comprised of” has been replaced with “consisting of” in each of the independent claims. This amendment is believed to preclude the reading of claim 1 on Daum in the manner described above.

II. No Motivation for the Combination

There is no motivation for the combination of Daum and Abali. Further, even if the references were combined in the manner suggested, the combination would not yield the invention of claim 1.

Daum teaches a command structure for an appliance. Abali teaches storing and transmitting temperature data separately from identification data, such that the temperature data does not form part of any identifier. The Office Action concedes that the command structure of Daum does not teach transmitting information representing, at least in part, at least one detectable environmental or physical condition. Abali teaches transmitting information representing at least one detectable environmental or physical condition, *but not as part of an identifier*. There is therefore simply nothing that would have motivated a person of ordinary skill in the art to modify the command structure of Daum to transmit information representing at least one detectable environmental or physical condition.

If there were any motivation to modify the system Daum based on the teachings of Abali to transmit information representing at least one detectable environmental or physical condition (and Applicants respectfully submit that there is not), one would not have been motivated to include such information *within the command structure of Daum*, but instead in the manner suggested by Abali (i.e., separately). Indeed, the command frame of Daum is used for controlling an appliance, and not for receiving data from an appliance (see col. 2, lines 8-31 of Daum). Thus, there is no apparent advantage that could be obtained by including information representing a detectable environmental or physical condition in the command frame. Further, eliminating the contents of the DATA field

of the command frame as suggested (to replace it with said information) would negatively impact the functionality of the command frame by prohibiting the stated purposes of the DATA field.

For similar reasons, there is also no motivation for the combinations proposed in connection with the rejection of independent claims 27 and 41 (the rejection of claim 41 further including "Shaw"), and the combinations would not yield the inventions of claim 27 and 41.

III. Office Action responses dated January 25, 2006 and July 19, 2006

The instant application has had a lengthy prosecution, during which the Examiner indicated, at least once, that if the rejections under 35 U.S.C. §112 were addressed, the rejections of claims 1 and 27 over Daum in view of Abali, and the rejection of claim 41 over Daum, Abali, and Shaw would be withdrawn (see reference to May 9, 2006 telephone interview on page 9 of July 19, 1006 Amendment; see also reference to January 24, 2006 telephone interview on page 9 of Amendment dated January 25, 2006).

Each time, when the rejections over Daum and Abali (and Daum, Abali and Shaw) were nevertheless maintained, Applicants have received no guidance on *why* Applicants' arguments and or amendments were not been persuasive in overcoming these rejections. For example, in each of the present Office Action (dated January 5, 2007), the prior Office Action (dated April 20, 2006) and the Advisory Action dated August 21, 2006, no response to Applicants' arguments concerning the rejections over Daum and Abali (and Daum, Abali and Shaw) were provided. Pursuant to MPEP §707.07(f), "where the applicant traverses any rejection, the examiner should, if he or she repeats the rejection, take note of the applicant's argument and answer the substance of it." Therefore, if the Examiner continues to believe that these rejections are founded, Applicants' representative would like to gain a clear understanding during the interview of why the arguments presented to date are not considered persuasive, so that Applicants can make an informed decision on how to proceed.

Applicants thank Examiner Le for her courtesy in granting the telephone interview.

Dated: April 2, 2007

Respectfully submitted,

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